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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA
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11

12 UNITED STATES OF AMERICA,)
13)
14 Plaintiff,)
15 v.)

16 JEFFREY ALEXANDER)
LASSOTOVITCH,)
17 Defendant.)
18)
19

NO. 1: 08-CR-296-AWI

MEMORANDUM OF
PLEA AGREEMENT PURSUANT TO RULE
11(c)(1)(B) OF THE
FEDERAL RULES OF
CRIMINAL PROCEDURE

Date: August 3, 2009
Time: 9:00 a.m.
Place: Courtroom Two
Honorable Anthony W. Ishii

20 Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal
21 Procedure, the United States, by and through LAWRENCE G. BROWN,
22 Acting United States Attorney for the Eastern District of
23 California, and MARLON COBAR, Assistant United States Attorney,
24 and the defendant, JEFFREY ALEXANDER LASSOTOVITCH, and his
25 attorney, ERIC V. KERSTEN, have agreed as follows:
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1 1. Charges.

2 The defendant acknowledges that he has been charged in an
3 Indictment with a violation of 21 U.S.C. § 841(a)(1) and (b) (C),
4 and 18 U.S.C. § 2 - Possession with the Intent to Distribute
5 Gamma-Hydroxybutyric Acid ("GHB") and Aiding and Abetting.

6 2. Nature, Elements and Possible Defenses.

7 The defendant has read the charges against him contained
8 in the Indictment, and the charges have been fully explained to
9 him by his attorney. Further, the defendant fully understands the
10 nature and elements of the crime which he has been charged with,
11 together with the possible defenses and has discussed them with
12 his attorney.

13 3. Agreements by the Defendant.

14 (a) The defendant agrees that this plea agreement shall
15 be filed with the Court and become a part of the record of this
16 case.

17 (b) The defendant agrees to enter a plea of guilty to
18 the sole count of Indictment, which charges him with a violation
19 of 21 U.S.C. § 841(a)(1) and (b) (C), and 18 U.S.C. § 2 -
20 Possession with the Intent to Distribute Gamma-Hydroxybutyric Acid
21 ("GHB") and Aiding and Abetting.

22 (c) The defendant stipulates and agrees that the facts
23 set forth in the Factual Basis in paragraph 6 herein are accurate
24 and that the drug quantity set forth in the Factual Basis is
25 reasonably foreseeable and attributable to him in the course of
26 the charged offense.

27 (d) The defendant acknowledges that, should the Court
28 fail to follow any or all of the Government's or defendant's

1 sentencing recommendations, the defendant will not be allowed to
2 withdraw his plea.

3 (e) The defendant agrees to pay a special assessment of
4 \$100.00.

5 (f) The defendant understands that the law gives him a
6 right to appeal his conviction and sentence. The defendant waives
7 any right to appeal his conviction and sentence and any right he
8 may have to bring any other post-conviction attack on his
9 conviction and sentence. He specifically agrees not to file a
10 motion under 28 U.S.C. § 2255 or § 2241 attacking his conviction
11 and sentence.

12 (g) The defendant agrees to waive all rights under the
13 "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to
14 recover attorneys' fees or other litigation expenses in connection
15 with the investigation and prosecution of all charges in the
16 above-captioned matter and of any related allegations (including
17 without limitation any charges to be dismissed pursuant to this
18 Agreement and any charges previously dismissed).

19 (h) The defendant acknowledges that, as a consequence
20 of his guilty plea in this case, he will become ineligible for (1)
21 assistance under any State program funded under part A of title IV
22 of the Social Security Act [42 U.S.C. § 601 et seq.], (2)
23 ineligible for benefits under the food stamp program (as defined
24 in section 3h of the Food Stamp Act) [7 U.S.C. § 2012(h)] and (3)
25 ineligible for any State program carried out under the Food Stamp
26 Act of 1977 [7 U.S.C. § 2011 et seq.]; all pursuant to 21 U.S.C. §
27 862a. The defendant further acknowledges that as a consequence of
28 his guilty plea in this case he may become permanently ineligible

1 for any or all Federal benefits.

2 (i) The defendant agrees that if he fails in any way to
3 fulfill completely all of the obligations under this plea
4 agreement, the defendant will assert no claim under the United
5 States Constitution, any statute, Rule 410 of the Federal Rules of
6 Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure,
7 or any other federal rule, that defendant's statements pursuant to
8 this agreement, or any leads derived therefrom, should be
9 suppressed or are inadmissible.

10 4. Agreements by the Government.

11 (a) The government agrees to recommend a three or two-
12 level reduction in the computation of the defendant's offense
13 level, provided that he makes a full and clear demonstration of
14 acceptance of responsibility under U.S.S.G. § 3E1.1.

15 (c) The government agrees to recommend a sentence at
16 the bottom of the applicable advisory Guideline range.

17 (d) The government agrees to recommend a two-level
18 reduction, provided that the defendant qualifies for application
19 of the safety valve provision, pursuant to U.S.S.G. §§ 2D1.1(b)(9)
20 and 5C1.2 and 18 U.S.C. § 3553(f)(1)-(5).

21 (e) The government and the defendant agree to jointly
22 recommend that an enhancement for "Abuse of Trust" under U.S.S.G.
23 § 3B1.3 is inapplicable under the facts giving rise to this case.

24 5. Elements of the Offense.

25 (a) In order to establish the crime of Possession with
26 the Intent to Distribute Gamma-Hydroxybutyric Acid ("GHB") and
27 Aiding and Abetting, in violation of 21 U.S.C. § 841(a)(1) and (b)
28 (C), and 18 U.S.C. § 2, the government must prove each of the

1 following elements beyond a reasonable doubt:

2 (i) That the defendant knowingly possessed Gamma-
3 Hydroxybutyric Acid ("GHB");

4 (ii) That the defendant possessed Gamma-Hydroxybutyric
5 Acid ("GHB") with the intent to deliver it to another person;

6 (iii) In addition, the government is required to prove
7 beyond a reasonable doubt that said possession with intent to
8 distribute involved a mixture and substance containing a
9 detectable amount of Gamma-Hydroxybutyric Acid ("GHB").

10 6. Factual Basis.

11 The defendant will plead guilty to the sole count of the
12 Indictment, because he is in fact guilty of the essential elements
13 of the crime set forth in the sole count of the Indictment. The
14 defendant also agrees that the following are the facts of this
15 case, although he acknowledges that, as to other facts, the
16 parties may disagree:

17 On or about August 27, 2008, in the County of Fresno, State
18 and Eastern District of California, and elsewhere, the defendant,
19 JEFFREY ALEXANDER LASSOTOVITCH ("defendant LASSOTOVITCH"),
20 knowingly and intentionally possessed with the intent to
21 distribute, and aided and abetted the possession with the intent
22 to distribute, a mixture and substance containing a detectable
23 amount of gamma-hydroxybutyric acid ("GHB"), a Schedule I
24 controlled substance. Defendant LASSOTOVITCH knew that GHB was a
25 controlled substance and that it was unlawful to possess it with
26 the intent to distribute it.

27 More specifically, the following factual basis exists in this
28 case:

29 On June 18, 2008 a team of U.S. Drug Enforcement
30 Administration (DEA) and U.S. Immigration and Customs Enforcement
31 Agents executed a federal search warrant issued in the Northern
32 District of California, at 370 Turk Street, Storage Unit 6-404,
33 San Francisco, California. Pursuant to the execution of this
34 search warrant, Agents discovered an operational, but inactive,
35 Gamma Butyrolactone ("GBL") to Gamma-Hydroxybutyric Acid ("GHB")
36 conversion clandestine laboratory. GBL is the chemical analogue
37 to GHB. Also found within the storage unit were several plastic

1 containers containing various items to include GBL, GHB, as well
2 as other items used to convert GBL to GHB.

3 Following the discovery of the clandestine lab, DEA Special
4 Agent (SA) Brian Keenan observed DEA chemists taking samples of
5 the chemicals found within the lab. After completing the
6 investigation at the lab, SA Keenan followed DEA policy and
7 contacted PARC Environmental Construction, based out of Fresno, to
8 clean up the clandestine lab. PARC Environmental had a standing
9 contract with DEA for this type of clean-up work. PARC
10 Environmental then responded to 370 Turk Street, San Francisco,
11 California. SA Keenan was present at the lab when the following
12 PARC Environmental employees arrived to clean up the lab: Jeff
13 Davis, later identified as defendant LASSOTOVITCH, Louis
14 Rodriguez, and Roy Holmes. These names were included on an
15 invoice that was given to SA Keenan upon completion of the lab
16 clean up.

17 SA Keenan later spoke to an employee of PARC Environmental,
18 and was told that defendant LASSOTOVITCH was not authorized to
19 participate in DEA-contracted lab clean ups, and therefore used
20 the name Jeff Davis, an individual that was authorized to
21 participate in DEA lab clean ups. Through further investigation,
22 SA Keenan learned that Jeff Davis was not present at 370 Turk
23 Street, San Francisco, California. SA Keenan eventually learned
24 that defendant LASSOTOVITCH was, in fact, present at the lab. SA
25 Keenan was then able to use California Department of Motor
26 Vehicles records to retrieve a photograph of defendant
27 LASSOTOVITCH associated with defendant LASSOTOVITCH's California
28 Driver's License number and positively identify the individual
using the name Jeff Davis, at the Turk Street lab, as defendant
LASSOTOVITCH.

On August 27, 2008, at approximately 3:45 PM, agents from the
Fresno Methamphetamine Task Force and DEA executed a federal
search warrant at defendant LASSOTOVITCH's residence located at
5327 South Maple Avenue, Fresno, California, concerning GHB and
GBL which DEA suspected defendant LASSOTOVITCH to have improperly
taken from the Turk St. location on June 18, 2008. Pursuant to
the execution of this search warrant, agents recovered
approximately 12 gallons of GHB at defendant LASSOTOVITCH's
residence. After agents secured the residence, DEA Group
Supervisor Jeffery Sandberg read defendant LASSOTOVITCH his
Miranda Rights, while witnessed by DEA SA Waleed Arabshahi.
Defendant LASSOTOVITCH agreed to speak with agents and stated that
he was aware that the chemicals were inside his residence.
Defendant LASSOTOVITCH further stated that the chemicals were
initially stored inside the garage of the residence, and then
relocated inside the residence. In fact, defendant LASSOTOVITCH
took possession of the said GHB from the 370 Turk Street, San
Francisco, California lab and later unlawfully converted it to his
possession by keeping it at his residence at 5327 South Maple
Avenue, Fresno, California, in order to distribute it. PARC
Environmental records show that the only lab defendant
LASSOTOVITCH was associated with in the San Bay Area where liquids

1 that were seized was the 370 Turk Street, San Francisco,
2 California lab.

3 7. Potential Sentence.

4 The defendant understands that, in determining his sentence,
5 the Court is required to take into consideration the Federal
6 Sentencing Guidelines adopted by the United States Sentencing
7 Commission. Further, he understands that the Court may give him
8 any reasonable sentence above or below the applicable Guidelines
9 range depending on aggravating or mitigating circumstances in his
10 case. The following is the maximum potential sentence which the
11 defendant faces for his conviction as to Count One:

12 (a) Imprisonment.

13 Mandatory Minimum: None.

14 Maximum: 20 years.

15 (b) Fine.

16 ^{two} Maximum: ~~Four~~ Million (\$4,000,000.00) Dollars. *2 g/c/m.c.*

17 (c) Fine and/or Imprisonment.

18 (d) Supervised Release.

19 ^{three 3} Mandatory Minimum: ~~Five~~ (3) years. *g/c/m.c.*

20 Maximum: Life.

21 (Should the defendant violate the conditions of
22 supervised release, he could be subject to a term
23 of imprisonment up to the term of supervised
24 release imposed.)

25 (e) Penalty Assessment.

1 Mandatory: One Hundred Dollars (\$100.00).

2 8. Waiver of Rights.

3 The defendant understands that by pleading guilty he
4 surrenders certain rights, including the following:

5 (a) If the defendant persisted in a plea of not guilty
6 to the charges against him, he would have the right to a public
7 and speedy trial. The trial could be a jury trial or a trial by a
8 judge sitting without a jury. The defendant has a right to a jury
9 trial. However, in order that the trial be conducted by the judge
10 sitting without a jury, the defendant, the government, and the
11 judge all must agree that the trial be conducted by the judge
12 without a jury.

13 (b) At trial, he would have the right to be assisted by
14 an attorney, who would be appointed if necessary.

15 (c) If the trial were a jury trial, the jury would be
16 composed of twelve lay persons selected at random. The defendant
17 and his attorney would have a say in who the jurors would be by
18 removing prospective jurors for cause where actual bias or other
19 disqualification is shown, or without cause by exercising
20 peremptory challenges. The jury would have to agree unanimously
21 before it could return a verdict of either guilty or not guilty.
22 The jury would be instructed that the defendant is presumed
23 innocent and that it could not convict him unless, after hearing
24 all the evidence, it was persuaded of his guilt beyond a
25 reasonable doubt.

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1 (d) If the trial were held before a judge without a
2 jury, the judge would find the facts and determine, after hearing
3 all the evidence, whether he was persuaded of the defendant's
4 guilt beyond a reasonable doubt.

5 (e) At a trial, whether by a jury or a judge, the
6 government would be required to present its witnesses and other
7 evidence against the defendant. The defendant would be able to
8 confront those government witnesses and his attorney would be able
9 to cross-examine them. In turn, the defendant could present
10 witnesses and other evidence on his own behalf. If the witnesses
11 for the defendant would not appear voluntarily, he could require
12 their attendance through the subpoena power of the court.

13 (f) At a trial, the defendant would have a privilege
14 against self-incrimination so that he could decline to testify,
15 and no inference of guilt could be drawn from this refusal to
16 testify.

17 (g) The defendant understands that by pleading guilty he
18 is waiving all of the rights set forth above and the defendant's
19 attorney has explained those rights to him and the consequences of
20 his waiver of those rights.

21 9. Questions by Court.
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23 The defendant understands that, if the Court questions him
24 under oath on the record and in the presence of counsel about the
25 offense to which he has pleaded guilty, his answers, if false, may
26 later be used against him in a prosecution for perjury or false
27 statement.

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1 10. Entire Agreement.

2 The defendant and his attorney acknowledge that no threats,
3 promises or representations have been made, nor agreements
4 reached, other than those set forth in this Agreement, to induce
5 the defendant to plead guilty.

6 11. Court Not a Party.

7 It is understood by the parties that the sentencing court is
8 neither a party to nor bound by this agreement and the sentencing
9 judge is free to impose the maximum penalties as set forth in
10 paragraph 7.

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12. Presentence Report.

The defendant understands that the United States Probation Office is not a party to this agreement and will make an independent investigation of the defendant's activities and his background and prepare a presentence report which it will submit to the court as its own sentencing recommendation. In addition, the Government will fully appraise the Probation Office, as well as the Court, of the full and true nature, scope and extent of the defendant's criminal activities concerning the charge to which the defendant is entering a plea of guilty.

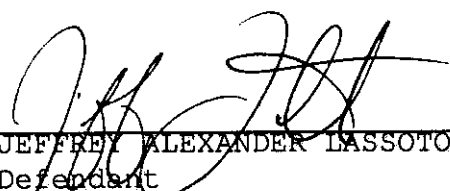
DATED: 8/3/09

Respectfully submitted,


LAWRENCE G. BROWN
Acting United States Attorney

By 
MARLON COBAR
Assistant U.S. Attorney

DATED: 8/3/09


JEFFREY ALEXANDER LASSOTOVITCH
Defendant

DATED: 8/3/09


ERIC V. KERSTEN
Attorney for the Defendant
JEFFREY ALEXANDER LASSOTOVITCH